

COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES  
FINANCE  
COMMITTEE HEARING

STATE CAPITOL  
MAIN CAPITOL BUILDING  
ROOM 418  
HARRISBURG, PENNSYLVANIA

TUESDAY, MARCH 2, 2010  
2:00 P.M.

PRESENTATION ON  
ACT 32

BEFORE:

HONORABLE DAVID K. LEVDANSKY, MAJORITY CHAIRMAN  
HONORABLE RICK MIRABITO  
HONORABLE DAN FRANKEL  
HONORABLE TIM SEIP  
HONORABLE RICK TAYLOR  
HONORABLE JOHN T. YUDICHAK  
HONORABLE THOMAS R. CALTAGIRONE  
HONORABLE GORDON DENLINGER  
HONORABLE BRIAN L. ELLIS  
HONORABLE MICHAEL PEIFER

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ALSO PRESENT:  
BOB KASSOWAY  
EXECUTIVE DIRECTOR  
JENNY STRATTON  
EXECUTIVE DIRECTOR

KELSEY DUGO  
REPORTER

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1 P R O C E E D I N G S

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3 CHAIRMAN LEVDANSKY: Good afternoon. I am  
4 Dave Levdansky, the chairman of the Finance Committee.  
5 I decided today to call a public hearing on Act 32.

6 Act 32 is a result of a lot of bipartisan,  
7 bicameral work, actually, on Senate Bill 1063, which the  
8 House and the Senate passed in the law in June of 2008.  
9 This legislation would allow for the consolidation of  
10 the wage tax collection system across Pennsylvania.

11 The legislation was an outgrowth of a study  
12 that had been conducted by the Department of Community  
13 and Economic Development several years prior and that  
14 study was followed up by additional work with the  
15 Pennsylvania Economy League, which documented that  
16 approximately, if my memory is correct, about \$237  
17 million of wage taxes go uncollected in the state  
18 because of the decentralized fragmented nature of our  
19 wage tax collection system in Pennsylvania.

20 Now, our wage tax collection system is such  
21 that I believe there are over 650 wage tax collectors  
22 collecting wage taxes that are due to the 501 school  
23 districts and over 2,500 municipalities, I believe.

24 So what we did in passing this legislation  
25 was to try to consolidate streamline and in so doing,

1 the goal was to result in a greater revenue gain for the  
2 school districts and municipalities without raising  
3 rates; and also, it was suppose to provide for a more  
4 efficient system, a more efficient system for taxpayers,  
5 for employers and for the taxing jurisdictions  
6 themselves.

7 But recently, it's been brought to my  
8 attention by other members as well as back in my area of  
9 Allegheny County, there's some real confusion and  
10 concern relative to how Act 32 is being implemented.  
11 And that's why I thought it was appropriate today to  
12 bring the various department and the various stakeholder  
13 groups that were all helpful in passing this  
14 legislation, to bring everybody together and have some  
15 panel discussions about the implementation of Act 32.

16 Before I introduce the people that are going  
17 to be on the panels, let me ask the members present to  
18 introduce themselves, starting down to the far right.

19 REPRESENTATIVE HARRIS: Representative Adam  
20 Harris; Juniata, Mifflin, and Snyder.

21 REPRESENTATIVE YUDICHAK: Good afternoon,  
22 John Yudichak; Luzerne County.

23 REPRESENTATIVE TAYLOR: Rick Taylor;  
24 Montgomery County.

25 REPRESENTATIVE MIRABITO: Rick Mirabito;

1 Lycoming County.

2 REPRESENTATIVE DENLINGER: Gordon Denlinger;  
3 Lancaster County.

4 REPRESENTATIVE SEIP: Tim Seip; I represent  
5 part of Schuylkill and part of Berks, the Cabela's and  
6 Mootz Candy District.

7 REPRESENTATIVE PEIFER: Good afternoon.  
8 Mike Peifer; I represent the 139th Districts, which are  
9 Pike, Wayne and Monroe Counties.

10 CHAIRMAN LEVDANSKY: What happened to the  
11 Cabela and Yuengling District?

12 REPRESENTATIVE SEIP: Well, Mr. Chairman,  
13 they got a good bit of notoriety on the U.S. hockey  
14 team, so I thought I would maybe go with Mootz Candy  
15 today.

16 CHAIRMAN LEVDANSKY: The first panel is a  
17 panel of representatives from DCED. That will be  
18 followed by a panel of representatives from local  
19 government.

20 Finally, the executive director of the  
21 School Business Officials Organization, and what I would  
22 ask would be for the participants in the first and  
23 second panels to stay because at the end, I want to have  
24 a round table discussion and there will probably be some  
25 feedback and some question and answer going on between

1 the people participating on all panels.

2 So with that, Mr. Steve Fishman, the general  
3 counsel with DCED. Mr. Fishman, would you like to  
4 introduce your staff of DCED?

5 CHIEF COUNSEL FISHMAN: Yes. With me today  
6 is Mitchell Hoffman from the Governor's Center for Local  
7 Government Services. He is the staff member that has  
8 been tasked with responding to questions from tax  
9 collection committees and municipalities and school  
10 districts from the office perspective. And Matthew  
11 Speicher from my office, from the legal office, who's  
12 also been handling these information requests or to  
13 assist in making determinations by local committees.

14 CHAIRMAN LEVDANSKY: Thank you.

15 CHIEF COUNSEL FISHMAN: Mr. Chairman,  
16 Members of the Committee, I have provided a brief  
17 synopsis and history and some analysis of what our task  
18 was, both in the construction of this legislation and in  
19 the rule of DCED in terms of implementation, rather than  
20 go over that and blow smoke at you. We're really here  
21 to hear your questions and to respond to them.

22 First, Mr. Chairman, you have identified  
23 perhaps the most often repeated issue and that is that  
24 committees and school districts and municipalities are  
25 concerned that costs and bureaucracy created by Act 32

1 and it's administration may cause them undue burdens  
2 with little assistance from the State; and therefore,  
3 causing them some concern. Committees have raised a  
4 number of issues regarding their organization and  
5 operations.

6 Let me address the first part of that. We  
7 have identified in our analysis of the operation of  
8 these committees, the likelihood that, and a tax  
9 collection committee's expenses for the operation of the  
10 tax collection committee, initially to be about \$20,000  
11 per year.

12 We have our receiving applications and will  
13 be funding for each tax collecting committee \$5,000. So  
14 we're looking at a net of approximately \$15,000. That  
15 includes the cost of an annual audit, something, which  
16 prior to Act 32, many, if not most, tax collecting  
17 municipalities and school districts did not get. Hence,  
18 one of the benefits of the Act to get transparency and  
19 to get effectiveness in collection and reporting.

20 Prior to Act 32, municipalities would simply  
21 get a report. This is how much we've collected, not  
22 identifying anything about from whom, how much or how  
23 much was not paid. We know that it will be a net  
24 benefit to municipalities and will result in more  
25 revenues by more efficient operation of the tax



1 collection process.

2 Out of that \$15,000, there will be minimal  
3 costs for advertising. Approximately 6 hearings,  
4 advertising costs should be no more than \$600. It's  
5 just a notice of a meeting. If the committee chooses to  
6 reimburse members or delegates for travel expenses, it  
7 might come to a few hundred dollars. The cost of a  
8 facility in which to have hearings, we assume will be  
9 nominal, provided by at least one or more of the  
10 participating municipalities and school districts.

11 There will be an expense for those  
12 municipalities who are -- those tax collection  
13 committees to choose to hire, at this point, their own  
14 solicitor or legal counsel and who may, if they choose,  
15 hire an advisor in terms of either accounting or tax  
16 collection. Those are optional. They are not required.

17 And let me make this one point perfectly  
18 clear, our department was tasked with implementation,  
19 including the development of operational procedures,  
20 model bylaws, IT requests for proposals, information  
21 technology report, tax officer request for proposal,  
22 model agreements with the tax collecting agency, draft  
23 of standard EIT forms, and a list of preliminary  
24 regulations.

25 In accordance with the Act, we have adopted

1 all of those and we did that after consultation with the  
2 advisory committee, which, as you know, or should know  
3 has representatives from all caucuses and approximately  
4 20 representatives from the community including all  
5 major municipal organizations and it includes school  
6 district and municipal representatives as well. We have  
7 also received any number of inquiries, which helped us  
8 in the design of these documents and we have consulted  
9 with some of the major stakeholders as we went along  
10 this process.

11 We are confident that any committee can  
12 simply use these forms that we have adopted with minimal  
13 changes that they want to make their bylaws -- to maybe  
14 perhaps enhance the bylaws in some way or some of the  
15 optional matters that they have, such as changing the  
16 weighted voting, how many meetings they're going to  
17 have, the powers of the officers. They're pretty  
18 standard for bylaws for a nonprofit organization, but  
19 they can modify those.

20 So we know there will be some expense, but  
21 we have calculated some of that already. For example,  
22 in our grant, we are allocating a maximum of 3,500 of  
23 the 5,000 to legal fees. We have received a number of  
24 questions and concerns about costs being far in excess  
25 of that \$20,000. We've received information that

1 they're in one county, the budget is 130,000, in another  
2 county, it's 60,000, and in other counties, it's much  
3 less than 20,000.

4           When we look further into that, what we've  
5 discovered is that, just as someone may choose to drive  
6 a car that's an economy car, that costs less than  
7 20,000, somebody may want a Mercedes. We don't fault  
8 them for wanting that, but we want to make it clear that  
9 there's absolutely no necessity for those rather  
10 substantial legal consulting fees and for certain  
11 insurances that are being bandied about.

12           And to be perfectly clear, the drive toward  
13 these additional costs is coming by associations that  
14 think that these are improvements to the organization  
15 and also by those who, themselves, will benefit by  
16 selling and marketing their services. And we've seen  
17 this as a pattern that concerns us and we've responded  
18 individually to the people who we have requested and we  
19 are putting on our FAQ, and mailing to each participant  
20 our analysis, dealing with costs and the fact that we  
21 believe our system has designed, the documents that  
22 we've designed should be satisfactory to all committees  
23 and that the cost should be nominal.

24           Now, I should say that in that total cost,  
25 we've allocated approximately 15,000 for the audit.

1 We've been advised by auditors that that's the ballpark  
2 figure for the first year. Thereafter, the auditing  
3 cost will go down substantially to the area of 8 to 10  
4 thousand. So we're aware of those concerns. We've been  
5 addressing them. But as with any problem, it seems to  
6 get a life of its own when people start talking to each  
7 other and we're going to try to make it clear to all tax  
8 committees that, in our opinion, these additional costs,  
9 these additional burdens, are not necessary. And yes,  
10 while the initial cost will be approximately \$15,000  
11 dollars.

12 I did an analysis in Cumberland and Dauphin  
13 Counties just because we're here and one has a large  
14 school district and one large city compared to the other  
15 rural areas. The other has small municipalities and a  
16 significant number of school districts. Now, what we've  
17 found is that the largest school district contribution  
18 would be about \$3,000 for the total cost in the first  
19 year, and the smallest contribution from municipalities  
20 would be in the neighborhood of \$40. So it is not an  
21 undue burden on those municipalities or school  
22 districts.

23 It's different in every county. The  
24 difference in the amount of taxes collected by school  
25 districts versus municipalities obviously changes from

1 county to county. But with that level of expenditure,  
2 we don't believe that it's going to be substantial. We  
3 would like to give more money, but we have allocated  
4 virtually all of the funds that we have for local  
5 government services this year to that process. And with  
6 that, we'll just open up to questions.

7 CHAIRMAN LEVDANSKY: Before I recognize  
8 members for questions, we have been joined by  
9 Representative Caltagirone from Reading and Berks County  
10 and by Representative Dan Frankel. Thank you,  
11 Mr. Fishman.

12 Any members have any questions?  
13 Representative Mirabito.

14 REPRESENTATIVE MIRABITO: I was struck by  
15 the statement that you say that we spend more than all  
16 other states combined on the collection. Do you have an  
17 idea on the number in what is spent now and then also as  
18 a percent of each dollar taken in, what was spent in the  
19 past and what will be spent under the new system? In  
20 other words, if you have to look at every dollar, but  
21 also the gross amount that we're spending on collecting  
22 it.

23 CHIEF COUNSEL FISHMAN: Representative, we  
24 don't have that information here to present. I will get  
25 that to you. It's all included, all that documentation

1 in the Pell study and on our website, but we will  
2 provide you with that. Suffice it to say, that  
3 conclusion that more than all the other states put  
4 together, I'm not sure that they call each and every  
5 state, but it was based on the number of taxing bodies  
6 and information they had about the relative or average  
7 costs.

8           What we know is that under this system, the  
9 cost of tax collection goes down dramatically and the  
10 amount of taxes collected, will go up dramatically. Let  
11 me also say that we've had three stakeholder groups that  
12 we had to take into consideration in the drafting of the  
13 bill and in the administration.

14           First was the business community. They were  
15 finding themselves in the horrendous situation where  
16 they might have to send one company doing business in  
17 Pennsylvania, let's take the one that everyone picks,  
18 Wal-Mart. They may have to send out hundreds of  
19 returns. That is several hundred taxing bodies. And  
20 the system that they currently have causes frequent  
21 mistakes, in terms of where is that money suppose to be  
22 sent. And we know from complaints from municipalities  
23 and school districts about the collections they're  
24 receiving, that they're not satisfied with the responses  
25 they were getting from their tax collecting agencies.

1           Part of that, given 560 different tax  
2 collectors is there are so many small collection  
3 agencies that don't have the software, don't have the  
4 manpower and really don't have the expertise to provide  
5 the level of information that municipalities need or to  
6 monitor the system to make sure that the dollars are  
7 getting where they're suppose to be going.

8           We find a lot of those tax collection  
9 agencies will end up with a pot of money, not knowing  
10 where it goes and it simply stays in their account until  
11 someone complains or they find some methodology to  
12 distribute that through a formula they create if they  
13 can't identify where it's to go.

14           So businesses were finding it very difficult  
15 to do this in Pennsylvania in terms of complying with  
16 local tax -- earned income taxes and were telling us in  
17 the hearings that we held that they were spending more  
18 time on these returns than they were on their state  
19 corporate net income or franchise tax returns, much  
20 more, and it was a real burden. We have heard that from  
21 the PA Institute of Certified Public Accountants, the  
22 Pennsylvania Society of Public Accountants. We've heard  
23 that from Team PA, from the NFIV and from virtually  
24 every major chamber of commerce across the states. So  
25 we know that it was a shared concern that partially

1 drove Act 32 and the design that we have for that.

2 For municipalities, their key concern is  
3 that they're getting every dollar they're entitled to.  
4 And as I mentioned before, many municipalities have no  
5 idea because they, themselves, lack the capacity, no  
6 staff, or virtually a part-time staff, to really know  
7 and to analyze the data. Under the new system, they  
8 will be getting monthly reports. So they know early on  
9 what's happening, what monies are being collected. If  
10 they have concerns, we have the system where they go  
11 first to the tax collecting committee. If they're  
12 unsatisfied, there's a mediation process because we  
13 wanted to keep cost down. Municipalities were telling  
14 us that they don't want to have to go to court every  
15 time that they have a dispute. So we have a mediation  
16 process in there. And then, legally, they still have  
17 the right to go to court if the concern is that they're  
18 not being fairly treated.

19 So by efficiency and collection, more  
20 reporting, more responsibility on the part of the tax  
21 collection agency and more transparency, we know that it  
22 will benefit municipalities.

23 And then we have identified taxpayers.  
24 Ultimately, the estimate of \$237 million are dollars  
25 that are going to be turned back to municipalities, thus



1 enabling them, theoretically, to either maintain taxes  
2 where they are or perhaps even lower taxes, although, as  
3 we know, it's probably more as a buffer against raising  
4 taxes.

5           So we've identified them, we have given them  
6 what they needed, we've made certain compromises between  
7 groups that wanted to focus more on the business side,  
8 more on the cost side, and hence, the system that we've  
9 created. That was long-winded, but I'm a lawyer, I  
10 can't help myself.

11           REPRESENTATIVE MIRABITO: The only other  
12 question that I have is, did you think about going to  
13 one system?

14           CHIEF COUNSEL FISHMAN: Yes, we did.

15           REPRESENTATIVE MIRABITO: We found in our  
16 community that a lot of businesses were not paying the  
17 business privilege tax and that the local municipality  
18 didn't really have a mechanism for identifying when new  
19 businesses came into the community, other than somebody  
20 driving by and saying, oh, they opened up a shop there.

21           After this experience that we've been going  
22 through over the last couple of months, and I'm looking  
23 at 69 committees and I'm thinking to myself, why not  
24 just one and remit it back? And maybe there's something  
25 that I don't know about it.

1                   CHAIRMAN LEVDANSKY: I can actually answer  
2 that one. As a matter of fact, Representative Mirabito,  
3 that's where I started introducing legislation. I mean,  
4 frankly, I thought that for simplicity sake in  
5 anticipating that some people just look to create  
6 opportunities for themselves when they really shouldn't,  
7 I mean, if you did this right.

8                   So I started out with a piece of legislation  
9 that said, the Department of Revenue will collect the  
10 wage tax and distribute it to all the municipalities and  
11 school districts across the state. Now, I got some  
12 pushback, I'll be honest with you, from the Department  
13 who said, oh, gee, we'll have to make new forms. I  
14 said, well, you already have a school district code when  
15 people file their state taxes. You could put a  
16 municipality code on it as well. Well, people don't  
17 really know where they live. Well, they'll figure it  
18 out. I mean, give us a ZIP Code and we'll get close.

19                   So that's where I started, but there was  
20 tremendous resistance to that. Frankly, it probably had  
21 something to do with the fact that those 500 or 600 wage  
22 tax collectors that are out there that would take away  
23 opportunities for them to do business if you had the  
24 state collect it. So there's tremendous pushback and  
25 resistance to it. Politics being the art of the second

1 best, it seemed to me that the next best option was to  
2 require it to be done on a county-wide basis and that's  
3 essentially what we have and there are some exceptions  
4 to it.

5 Philadelphia already had it in place because  
6 they're a continuous county and school district and  
7 municipality all rolled into one. In Allegheny County,  
8 we had to carve Allegheny County up into four distinct  
9 tax collection districts because of the fact that we  
10 have 132 municipalities and 40-some school districts.  
11 So there were some unique things that you had to do.  
12 But generally speaking, for most counties, you're right,  
13 it's countywide. So we did try to do it statewide, but  
14 again, there was tremendous political opposition in the  
15 legislative process to do it that way.

16 CHIEF COUNSEL FISHMAN: Just a couple of  
17 comments on that. The hesitation from the Department  
18 was really from the Department of Revenue that would  
19 have to make major modifications to their software  
20 systems as well as their forms.

21 They don't have that -- they say that right  
22 now they don't have that capability. Of course, we know  
23 they could have developed that capability. There would  
24 have been significant cost, however, to that.

25 We, having been involved in the drafting of

1 this legislation from the beginning, the Department  
2 favored this very simple system that would, thus,  
3 guarantee the efficiency of the system because of the  
4 amount of administrative cost that would be allocated to  
5 the Department of Revenue would be kept down and the  
6 most effective distribution, because they would have  
7 control by the classifications that we've now given  
8 every municipality and every school district. It could  
9 have worked.

10 We went from there because of opposition at  
11 the local level to countywide. The county is there,  
12 it's already in existence, it has certain capabilities,  
13 let the county do it. We had opposition to that on the  
14 basis that there's a certain amount of tension between  
15 municipalities, school districts and counties, fear that  
16 the counties are going to grow and the costs are going  
17 to increase. So there was as much pushback on that as  
18 we had with statewide.

19 And then we came to the logical, what we  
20 thought, conclusion, that by having countywide, by  
21 having the committees responsive to their individual  
22 constituent municipalities and school districts, gave us  
23 the best meld to satisfy their needs. And I have to  
24 tell you, it took us longer to just develop that  
25 framework than it did for the framers of the

1 constitution to write the entire constitution. Now,  
2 they came up with the bicameral legislature, we came up  
3 with these committees, and it was certainly a  
4 compromise, but it was the best that we could do.

5 Last comment is, the legislation allows for  
6 further consolidation. We can see where county  
7 committees will consolidate and thus decrease the number  
8 of tax collection agencies and increase the efficiency.  
9 But I think they're going to have to see how it runs  
10 first and then develop that comfort level with each  
11 other.

12 CHAIRMAN LEVDANSKY: I'm not going to hold  
13 my breath waiting for that. Representative Seip.

14 REPRESENTATIVE SEIP: Thank you, Mr.  
15 Chairman. Thank you all for being here today. It's  
16 nice seeing you again, Mitch.

17 Schuylkill County, by the way, was one that  
18 had the 60,000 start-up estimate. Fortunately, though,  
19 one of my municipalities, Mount Carbon, was able to pay  
20 only an \$18 share because we're fortunate enough to have  
21 67 municipalities in a county of about 148,000 people.

22 I wanted to ask you about, you had said that  
23 they don't necessarily have to have a solicitor, that's  
24 optional. Did I hear that right?

25 CHIEF COUNSEL FISHMAN: Number 1, they can

1 contact us and we respond immediately, I mean, within a  
2 day, to every inquiry if it's legal from our office.  
3 But we've also anticipated that with the number of  
4 municipal solicitors and school district solicitors they  
5 have, they could work out something that would make it  
6 most efficient but also not go looking for problems.

7           Attorneys, just as any other professional,  
8 is going to look for business. We don't think they need  
9 to rely so heavily, as some are, on outside legal  
10 counsel. But certainly there will be some need for  
11 legal counsel if only to sit there during the  
12 organizational phase and beat people up when they can't  
13 even reach an agreement on bylaws.

14           REPRESENTATIVE SEIP: Now, it's my  
15 understanding that there initially was hope that there  
16 would be more grants available for these bodies to apply  
17 for to try and get that start-up money. Can you talk a  
18 little bit about what initially was thought to be  
19 available and what actually became available?

20           CHIEF COUNSEL FISHMAN: I can't say that we  
21 ever believed would be available as much as we hoped  
22 would be available. We requested, but as you know, the  
23 budget of the governor's center has been significantly  
24 reduced under the budget. We would have loved to have  
25 additional monies; we would have loved to have funded

1 this entire project because it would have taken that  
2 concern out of the equation; we could let this succeed.

3 We're using every dollar that we have to the  
4 extent that we've really damaged our ability to provide  
5 the level of services, local government services, that  
6 we've had in the past, but we're just going to stretch  
7 our personnel and try to continue to provide that with  
8 the rather reduced staff. We went on the clerical staff  
9 from six to one in order to meet the budget.

10 REPRESENTATIVE SEIP: Well, as most of the  
11 members are aware of, I've offered the smart plan, a  
12 piece of legislation from last September, which, if we  
13 can get an Act that would put a billion dollars into the  
14 budget, this budget year and then the two following  
15 years. I mean, you could speak to your bosses about  
16 getting behind that. I will continue to urge the  
17 members here to support the plan as well. Thank you for  
18 being here. Thank you, Mr. Chairman.

19 CHAIRMAN LEVDANSKY: Thank you,  
20 Representative Seip. Before I turn to Representative  
21 Denlinger, I just want to announce that also in  
22 attendance is Representative Brian Ellis from Butler  
23 County.

24 REPRESENTATIVE DENLINGER: Thank you,  
25 Mr. Chairman. Thank you, gentlemen. The question I was

1 just wondering -- and perhaps, Mr. Hoffman, this is your  
2 rule -- are you the point man or the go-to guy within the  
3 agency on this issue?

4 LOCAL GOVERNMENT POLICY SPECIALIST HOFFMAN:  
5 As far as the point person, fortunately, I probably am.  
6 Basically, I wasn't really involved with the legislative  
7 process at all and when the Act was implemented, there  
8 was hope that through some compliments that we were able  
9 to bring to people and staff, I mean, that didn't come  
10 to fruition.

11 Prior to working in DCED for 10 years,  
12 primarily the local government's been helping to  
13 implement legislation and offer technical systems. I  
14 was in the local government sector for 18 years  
15 primarily as municipal management and served as a tax  
16 collector for a period of time.

17 What we have tried to do is, as for some  
18 indicated, provide assistance as best as we can and  
19 answer questions when they come in. We initially  
20 started by working with our local government training  
21 partnership and conducted approximately 24 workshops  
22 across the Commonwealth. We've tried to select regions  
23 and invite as many municipal officials, tax collectors,  
24 municipal solicitors, school district officials to  
25 advise them on the requirements of the Act and then



1 offer advice and information from the Department on the  
2 systems to get started and what they needed to do.

3           Since that time, we've conducted actually  
4 two webinars in conjunction with the WITF TV. The first  
5 one being primarily as a basic informational workshop  
6 webinar where, really, it targeted anyone. The second  
7 one was just conducted last Tuesday primarily for tax  
8 collection committees, delegates, and anyone really  
9 involved with the implementation of the Act.

10           The first one was -- I'll back up, before I  
11 was saying about county officials -- to let them know  
12 what their role and responsibility was to attend, which  
13 was basically getting everybody to attend the meeting  
14 and facilitating to set up that meeting and letting it  
15 happen from there.

16           But, I mean, I can honestly say that  
17 probably 99.9 percent of my time now has been dedicated  
18 primarily to Act 32 implementation. I mean, it's taken  
19 by far above and beyond any other activity that I used  
20 to work on and then we have a few other staff members  
21 who were persistent as well. And I'm still going out  
22 and meeting with tax collection committees, Schuylkill  
23 has been one of the most recent ones, to request that of  
24 the representatives. I've been to Butler several times.  
25 Not too many counties that I have not attended the

1 meetings regarding Act 32.

2 REPRESENTATIVE DENLINGER: And then just to  
3 provide us with a status update, two questions, where  
4 are we in the education learning curve with all of the  
5 counties that are out there and are you running into  
6 counties with major resistance, people who just refuse  
7 to grab hold of this issue and deal with it?

8 LOCAL GOVERNMENT POLICY SPECIALIST HOFFMAN:  
9 I mean, initially, there were several counties or tax  
10 collection district areas where there was significant  
11 resistance, even prior to a set up of the initial  
12 meetings -- organizational meetings, which we hit the  
13 curve by November 15, 2009.

14 Since that time, as the committees have  
15 organized and started working on their responsibilities  
16 because of additional information that has been  
17 disseminated from other entities, there has been  
18 additional resistance primarily due to misunderstandings  
19 of the requirements, as Mr. Fishman indicated, what  
20 they're obligated to do or required to do. And then  
21 because of the weighted vote scenario, school districts  
22 have, typically, a larger rule or have a heavier weighed  
23 vote even though they represent fewer delegates, which  
24 has created some resistance between basically the school  
25 district entities and the local governments, which are

1 boroughs and townships.

2 CHIEF COUNSEL FISHMAN: And what we've  
3 found, by the way, is that, specifically, those involved  
4 with school boards, the associations, tend to have in  
5 practice a much more conservative approach of requiring  
6 a lot more of the committee than we believe is  
7 absolutely necessary. And so, in a sense, where they  
8 come up with high costs in their budget, then the  
9 municipalities are objecting and they're objecting  
10 because the school districts on the weighted vote can  
11 make that decision.

12 Remember, there's limited decision-making  
13 authority. It has really been oversold as a concern for  
14 municipalities and school districts. It is solely for  
15 organization, electing officers at the initial meeting,  
16 adopting a set of bylaws, and in the bylaws, they can  
17 amend. They can change that weighted voting any way  
18 they wish, and some are simply going to want to vote per  
19 municipality or school district and some are going to  
20 other methods. This is a concurrent power between  
21 local, government and state with regard to tax  
22 collection and we allow them that latitude.

23 REPRESENTATIVE DENLINGER: Based on your  
24 experience, I'm wondering -- you're on the frontline of  
25 this -- are we at a point where you feel that we need

1 follow-up or corrective legislation to address any  
2 issues that you see outstanding?

3 CHIEF COUNSEL FISHMAN: I don't believe that  
4 we've identified a major need and we won't be able to  
5 until we get further along and other issues come up or  
6 that we can't address certain issues and we have a hard  
7 time getting committees to organize. We've had one  
8 experience where a meeting was held and none of the  
9 municipalities showed up, just the school districts.

10 Now, I don't know if we can legislate  
11 anymore. It's mandated that they participate and there  
12 are processes that can take place if the municipalities  
13 fail to appoint representatives or those delegates or  
14 those delegates don't show up. We don't want that to  
15 happen. We think we need more education and we need to  
16 clear up some of the misinformation that we think is out  
17 there.

18 REPRESENTATIVE DENLINGER: So the framework  
19 is in place, more education and maybe some attitudinal  
20 changes are called for?

21 CHIEF COUNSEL FISHMAN: Yes.

22 LOCAL GOVERNMENT POLICY SPECIALIST HOFFMAN:  
23 I agree.

24 REPRESENTATIVE DENLINGER: Thank you. Thank  
25 you, Mr. Chairman.

1                   CHAIRMAN LEVDANSKY: Mr. Fishman, I just  
2 want to focus just for a second on this voting procedure  
3 because I've heard so much concern about it. What I've  
4 heard you say is that the voting procedure is used  
5 initially and the appointment of officers for the tax  
6 collection committee. Secondly, for the approval and  
7 option of bylaws.

8                   CHIEF COUNSEL FISHMAN: Oh, and there's a  
9 third, the appointment of tax collection entity or the  
10 creation, if they choose to create a tax collection.

11                   CHAIRMAN LEVDANSKY: And also, who would  
12 then, to the extent that some of these tax collection  
13 districts are going out and hiring, not the solicitors,  
14 but they're spending money for really questionable  
15 purposes. Is it by a vote of -- is it the officers of  
16 the committee then that basically tell all the  
17 participants, that this is your share of what you're  
18 going to have to pay towards all of this?

19                   CHIEF COUNSEL FISHMAN: Initially, it's the  
20 weighted vote. If they amend in their bylaws, the  
21 voting, then it will come by whatever they amend.

22                   LOCAL GOVERNMENT POLICY SPECIALIST HOFFMAN:  
23 I'll just try to clarify that. The legislation  
24 establishes the weighted vote scenario, which is based  
25 50 percent on reported EIT revenue and 50 percent of

1 population. Obviously, school districts encompass a  
2 much greater geographic area, so their population is  
3 much heavier and their EIT revenue is much greater.  
4 That's the default voting requirement established by the  
5 legislation. At the very minimum, they're required to  
6 use that at their organizational setup meeting to elect  
7 officers and basically organize.

8 If they chose to, which some did at their  
9 original set meeting, they could amend that voting  
10 procedure to, for example, one to one. But they needed  
11 to use that weighted vote scenario --

12 CHAIRMAN LEVDANSKY: To do that, yes.

13 LOCAL GOVERNMENT POLICY SPECIALIST HOFFMAN:  
14 And primarily in county tax collection districts that  
15 already had a predominately consolidated collection in  
16 place, that wasn't an issue, and two local ones, for  
17 example, are Perry County and York County. Both of  
18 those had primarily consolidated collection procedures  
19 in place, nothing in compliance with the Act. So it was  
20 a relatively smooth procedure for them to change to a  
21 one-to-one voting scenario, and now they've continued to  
22 use that one to one to adopt bylaws, to prepare  
23 subcommittees and to form all of the other requirements  
24 that they have been designated to do so under the Act.

25 CHAIRMAN LEVDANSKY: I'm hearing from

1 colleagues that point out to me that there are areas of  
2 the states where, in a particular county, you have a  
3 couple of school districts and a couple of  
4 municipalities. I mean, literally, one or two school  
5 districts and one or two municipalities because of the  
6 weighted vote that they then have the majority of the  
7 vote.

8           So you could have, literally, a combination  
9 of three or four school districts and municipalities  
10 that may be in a county with dozens of municipalities  
11 and school districts, but three or four of them, because  
12 of the weighted vote, they have the majority vote.

13           I'm just trying to figure out a way to  
14 address those kinds of concerns, that the smaller  
15 municipalities feel as though, you know, the big dogs  
16 are calling all of the shots and we really don't have  
17 meaningful input, and that's not fair.

18           What would you think if I could think of one  
19 minor change to the law that might correct it? And that  
20 would be to make it a two-thirds vote and by really  
21 forcing a consensus driven decision-making approach.  
22 What would your reaction be to that? Notwithstanding  
23 the fact that initially I know that we don't really want  
24 to go back in and amend Act 32. But if we had to, would  
25 that solve the problem?

1 CHIEF COUNSEL FISHMAN: That's a fair  
2 question. To answer that, first I would have to say  
3 that you certainly know that this legislation was held  
4 up for almost six months over this singular issue of the  
5 weighted vote. When we recommended each municipality  
6 have one vote, each school district have one vote, you  
7 can imagine the outcry we've received from the School  
8 Boards Association and individual school boards. When  
9 we looked at their proposal, and they had proposed  
10 specific legislation that would have called for it to be  
11 driven by revenues, which would have in almost all  
12 cases, favored the school board's controlling of that  
13 vote.

14 The affect of the "great compromise," as I  
15 call it, is that there was not active opposition by the  
16 time of final passage. That was predicated on the fact  
17 that we did not know at the time what the implications  
18 would be for any particular county. In some counties  
19 with the two municipalities and two school districts,  
20 you have one result. In other parts of the state, you  
21 have different results. So it was presumed that this  
22 was fair to the two constituent groups that seemed to be  
23 at loggerheads. Would we be happy with something that  
24 would make this more efficient and overcome the  
25 potential for no action by the tax committees?



1 Absolutely. But whether that would be acceptable to the  
2 associations and whether that acceptability has an  
3 impact on the legislatures or something, that's out of  
4 my control.

5 CHAIRMAN LEVDANSKY: You're right, it did  
6 delay the process of passing the legislation. This  
7 whole thorny issue of the weighted vote -- and I'm not  
8 suggesting that we change the weight from half of a  
9 based on revenue or half of a based on population. All  
10 I'm saying is, you change the threshold from fifty plus  
11 one percent when it comes to using a vote to make a  
12 decision to a two-thirds plurality.

13 CHIEF COUNSEL FISHMAN: Well, right now, the  
14 default is two-thirds.

15 ASSISTANT COUNSEL SPEICHER: Let me clarify.  
16 The sample bylaws that we provided have a section that  
17 provides for a two-thirds vote for major decisions, such  
18 as choosing your tax officer and buying real estate.  
19 But, of course, it's the same issue. You have to use  
20 the weighted vote to get there.

21 CHAIRMAN LEVDANSKY: Yes, and that's if 51  
22 percent can't make the agreement. But the problem is  
23 that there is a 51 percent or a 53 percent that make the  
24 decision. It's just that the 47 or 49 percent feel as  
25 though they're being iced out of the decision-making

1 process.

2 LOCAL GOVERNMENT POLICY SPECIALIST HOFFMAN:  
3 I don't want to step on anyone's toes and I want to try  
4 to be careful of that. As the question came up earlier,  
5 we did have a few districts or tax collection areas,  
6 counties that we knew problems existed prior to the  
7 organization.

8 So I think the most surprising or, I guess,  
9 the most disappointing to me, anyway, as far as going  
10 out and working with these groups is that some of the  
11 tax collection committees or districts where problems  
12 now have arisen, that didn't exist when they were  
13 organized. Everyone was working on a common goal and  
14 realized that this would result in improvement. Little  
15 differences aside, there was a very strong consensus to  
16 work together and provide compliance with the Act.

17 It has come to light very recently, there's  
18 50 total delegates, 45 are municipal delegates, and 5  
19 are school districts. The 5 school districts represent  
20 more than 50 percent of the weighted vote. And it's  
21 come down to a basic standoff between those 45 and 5  
22 over the purchase of a \$4,000 tax collector RFP and  
23 every intention of additional legal services. And it's  
24 created a standoff, to the point where they can't  
25 organize enough delegates now to hold a meeting to move

1 past that, and that has become more and more commonplace  
2 and more and more of an issue as we've gotten into this.

3 CHAIRMAN LEVDANSKY: Two other quick  
4 questions. Is there any particular region in the state  
5 where these kinds of problems tend to be more pervasive  
6 than in others? You can tell me if it's my area of the  
7 state, that's okay.

8 LOCAL GOVERNMENT POLICY SPECIALIST HOFFMAN:  
9 I honestly don't think so.

10 CHAIRMAN LEVDANSKY: No?

11 CHIEF COUNSEL FISHMAN: I mean, we can  
12 identify local areas and problems and they're all  
13 different.

14 CHAIRMAN LEVDANSKY: One final thing.  
15 You've mentioned and I've heard about your 200-page EIT  
16 best practices report and guide that the Department put  
17 together. I understand that it contains suggested  
18 operational procedures and you have model bylaws, you  
19 even have a model agreement for tax collectors. I  
20 presume that the Department expended a considerable  
21 amount of time on this effort. I also understand from  
22 several sources that your effort has been duplicated,  
23 for the most part, by another local government service  
24 associations, which is charging a fee of up to \$4,000  
25 for the same type of information and models that the

1 Department has already made available through your best  
2 practices report. Can you comment on that?

3 CHIEF COUNSEL FISHMAN: This frustrates us  
4 to no end. We worked with organizations and individuals  
5 through the process. They gave us recommendations and  
6 criticisms, we included those, and yet, there are  
7 organizations, individuals, firms that, for one reason  
8 or another, believe that they can provide a valuable  
9 service in reinventing the wheel.

10 All that we can do is advise these  
11 committees that we don't believe those are wise  
12 expenditures. We certainly tell them that they aren't  
13 necessary expenditures and to the degree that that fuels  
14 some of the anger, frustration with the costs associated  
15 with the committees. It's creating a problem that  
16 doesn't need to exist.

17 CHAIRMAN LEVDANSKY: You've got to feel  
18 sometimes as though, even throughout this whole process,  
19 after we've brought everybody together and worked out  
20 all the details, no sooner the ink is dry, some people  
21 just look for ways how to make it not work.

22 CHIEF COUNSEL FISHMAN: I don't think they  
23 don't want it to work. It seems more to me that they  
24 want to benefit --

25 CHAIRMAN LEVDANSKY: It's an opportunity to

1 make a buck. Rather than using the guide that the  
2 Department put together, rather than using that as the  
3 model, with everything that it includes to help  
4 facilitate putting this sensible approach to collecting  
5 taxes in place, others go out there and look for an  
6 opportunity to basically replicate the work that you've  
7 done and charge people a fee for doing it; am I correct?

8 CHIEF COUNSEL FISHMAN: You have no argument  
9 from us.

10 CHAIRMAN LEVDANSKY: That's what's going on.

11 LOCAL GOVERNMENT POLICY SPECIALIST HOFFMAN:  
12 I want to add that I would never state that both sets of  
13 materials are the same because --

14 CHAIRMAN LEVDANSKY: Of course not. It  
15 would be plagiarism then. But it's basically the same  
16 thing.

17 LOCAL GOVERNMENT POLICY SPECIALIST HOFFMAN:  
18 What our goal was to provide these tools, documents and  
19 procedures that met the requirements of the Act. It  
20 gave them what they needed to implement the Act and  
21 comply with what they needed to do. If they chose as a  
22 committee or individual members to ask for additional  
23 items, say from the tax collector, require additional  
24 insurances, that's their choice, as well as anyone can  
25 do as they go out and shop for something or look for

1 something. They can do that. But when it comes down to  
2 the fact that now they believe that they are required to  
3 do that or they feel that is their responsibility and  
4 it's going to cost them these additional dollars, once  
5 again, that's where the contention has arisen and where  
6 we've experience most of the problems.

7 CHAIRMAN LEVDANSKY: With that, I want to  
8 thank you for your insights and contribution because, at  
9 least from my perspective, I think this is the first  
10 step in trying to educate both members and the public  
11 about how streamlined and efficient we really can make  
12 this. Notwithstanding the fact that some people always  
13 look for opportunities to make things more confusing and  
14 complicated than what they really are because there's an  
15 opportunity to make a buck when you do that.

16 Notwithstanding their self interest in doing  
17 that, I think working together, legislatures and the  
18 Department, we can get the word out there. And I am  
19 looking forward to working with you and your staff,  
20 Mr. Fishman, at least back in Allegheny County, to really  
21 clarify to my local elected officials how this should be  
22 working and the opportunity that they have to use your  
23 resources to help put this in place at relatively minimal  
24 cost. That ought to be the standard, that ought to be  
25 the model. And in retrospective, if we do it over again,

1 maybe we ought to put some penalties in the law so if  
2 municipalities and school districts don't want to  
3 cooperate, we could always withhold some money from  
4 liquid fuels. If they want to spend a lot of money doing  
5 it, we could withhold that and pay it that way and  
6 probably have a statewide contractor to do it a lot more  
7 simpler.

8 Thank you very much for your insights, but  
9 we've got some work to do to make sure that the law that  
10 we work so hard over a period of multiple years to put in  
11 place, that I don't want to see the legislature become so  
12 frustrated that there are calls to repeal it because some  
13 people and some organizations have deliberately sought to  
14 make this a more complicated process on what it really  
15 ought to be. So stick around. We're going to have some  
16 more questions, I think.

17 Next panel, I want to call Elam Herr, the  
18 assistant executive director of the Pennsylvania State  
19 Association of Township Supervisors; Dr. David Davare,  
20 the director of research services for the Pennsylvania  
21 School Boards Association; Mr. Ronald Grutza, the  
22 research analyst with the Pennsylvania State Association  
23 of Boroughs.

24 ASSISTANT EXECUTIVE DIRECTOR HERR: Thank  
25 you, Mr. Chairman.

1 I am Elam Herr, the assistant executive  
2 director for the Township Supervisors Association and I  
3 want to thank you for affording me this opportunity to  
4 comment on Act 32 of 2008. I will not read the  
5 testimony. You have already been given a copy, so I'll  
6 just make some highlights to keep moving.

7 First, I want you to know that PSATS long  
8 supported changes to the earned income tax collection  
9 process. We have requested mandatory audit  
10 requirements, stronger bonding provisions, uniform forms  
11 and reporting requirements, distributions based on  
12 actual receipts, reconciliation of all tax dollars,  
13 sharing of information with the Department of Revenue,  
14 and stiff penalties for collectors who fail to follow  
15 the law. We believe that these changes would have  
16 created accountability and protected the tax dollars,  
17 and to be honest, it would have simply been good  
18 government.

19 So everyone knows the provisions that are a  
20 part of Act 32, we feel will correct many of the  
21 existing weaknesses of the current system. We worked  
22 with the other local government groups as well as the  
23 administration to obtain amendments that would be  
24 beneficial to all municipalities. In some cases we have  
25 succeeded. In other cases, the resulting compromises



1 ended up further complicating matters. In any case, the  
2 Act was approved and we have attempted to provide the  
3 best guidance to our members in order to implement the  
4 law.

5 My remaining comments are based on the  
6 comments and statements we have received from our  
7 members since they began the process of formulating the  
8 required tax collection committees last fall. Although  
9 the law was promoted as a means to reduce cost for tax  
10 collection of the earned income tax, many of the  
11 concerns that the savings promised will never  
12 materialized and that the only real change would be a  
13 new tax collection bureaucracy.

14 Here are some of the items. Accuracy and  
15 updating of resident's residential data. As in the  
16 past, the issue is the ability to ensure that residency  
17 lists are updated and that the taxes are sent to the  
18 proper jurisdictions. This is a major concern under the  
19 existing system and our membership does not want the  
20 practice to continue. We have examples of millions of  
21 dollars sitting in accounts of a tax collection agency  
22 due to the inadequate list in the distribution  
23 processes.

24 Weighted voting, and this is what you have  
25 already been discussing. This was, and still, is a

1 major concern of our members. Although the weighted  
2 system, as dictated in the law, was a compromise, our  
3 members still have a fear that the school districts will  
4 have an edge due to their ability to levy earned income  
5 taxes that are rated higher than municipalities. As  
6 such, the concern is that the school districts will  
7 continue to use the same entities that are presently  
8 collecting the tax and follow the same practices.

9 Cost sharing: Another compromise was that  
10 the cost sharing of running the tax collection systems  
11 must be shared proportionately based upon the EIT taxes  
12 collected, unless the majority votes otherwise. And  
13 with the weighted voting, many have stated that the  
14 formula is being changed.

15 Start-up cost: Although the cost of the  
16 sharing issue is how the start-up cost of the system is  
17 to be financed, costs include legal fees, insurance,  
18 legal advertising, meeting space, and staff, to name  
19 just a few. The law is silent on this issue and local  
20 officials are finding that the costs are extensive.

21 Again, as part of the compromise with the  
22 administration, DCED agreed to prioritize \$1 million in  
23 shared admissible service grants for this exact purpose.  
24 But with the budget cuts, they are making available  
25 \$5,000 per collection district or total sum of

1 approximately \$345,000. This is a substantial decrease.

2           And while we're talking about the  
3 department, we've heard complaints about the lack of  
4 assistance from them and we've realized that they were  
5 given an additional responsibility with a shrinking  
6 budget and already overworked staff. Budget cuts are  
7 impacting the assistance that the department could and  
8 most likely would provide. Examples of what they have  
9 done: The best practice report, sample bylaws,  
10 contracts, and evaluation criteria.

11           Distribution of funds: The timing of the  
12 distribution of funds to the appropriate taxing  
13 jurisdiction is a major concern to our members. The Act  
14 requires a 60-day turnaround which would be reduced to  
15 30 days after several years. We've argued for a maximum  
16 of 30 days, since today many jurisdictions are receiving  
17 their monies more frequently.

18           Some other concerns is that the tax  
19 collection certification process is not yet up and  
20 running. And without the certification process,  
21 collectors cannot be appointed. The Wal-Mart provision,  
22 and this is not a Wal-Mart bashing statement, but the  
23 provision allows the national firms to do business in  
24 numerous locales in Pennsylvania, to decide where they  
25 want to send the earned income taxes for all of their

1 employers, one single location. Lack of guidance in the  
2 law regarding reconciliation in appeals when a  
3 municipality does not receive monies owed to it by the  
4 tax collector.

5           Finally, I just want to make it clear that  
6 not all the feedback is negative. Some areas are moving  
7 ahead in a fair and efficient manner. And in those  
8 areas where problems do exist, they are trying to  
9 address the issues head on. They only wonder why the  
10 law had to go to such extremes to correct the problem,  
11 and that problem is getting the right money back to the  
12 right jurisdiction.

13           So, Mr. Chairman, at this time I want to  
14 thank you again for giving me the opportunity and after  
15 the rest of the panel, I'll be more than willing to  
16 attempt to answer any of the questions that you have.

17           CHAIRMAN LEVDANSKY: Thank you. Let's hold  
18 the questions until the presentations by all the three  
19 panels.

20           DIRECTOR OF RESEARCH SERVICES DAVARE: Good  
21 afternoon, Chairman Levdansky, Members of the House  
22 Finance Committee. Thank you for providing me with the  
23 opportunity to speak to you today on this important  
24 topic.

25           Like the other presenters, I have submitted

1 written testimony. I want to highlight a couple of  
2 things to help expedite the process. We've realized,  
3 especially now in these difficult times, school  
4 districts are looking for ways to save money. They have  
5 considered cutting costs and other things.

6           Although the consolidated EIT collection  
7 system has the potential to be complexed, and in  
8 practice, some of the individuals found it to be  
9 extremely complexed, we think those fears are  
10 unwarranted. We believe that a consolidated regional  
11 tax collection system, much as designed within Act 32,  
12 will offer more uniformity, better oversight, better  
13 efficiency along with accountability, and also provide  
14 access to technology that does not currently exist today  
15 in a lot of the small word communities, and that  
16 includes things like electronic fund transfers to speed  
17 the flow of cash back and forth.

18           We supported the provisions that alined  
19 collection districts along the county boundaries and we  
20 worked diligently with the Department of Community  
21 Affairs in terms of identifying multiple county school  
22 districts and then working with them to ensure that the  
23 municipalities as well as the school districts were  
24 adequately represented for the weighted voting.

25           We support the public policy concept in

1 general that is designed in Act 32, which is  
2 consolidation in streamline; however, like most of the  
3 other agencies, we did have concerns about inadequate or  
4 uncertain start-up costs. The Department promised to  
5 prioritize assured services and we understand that their  
6 budget was cut. We don't feel that in some cases there  
7 is sufficient funds available.

8 In counties where there were preexisting  
9 primarily county-wide collection efforts, such as  
10 Lancaster County, those start-up costs would be  
11 extremely small. But in very rural districts, which had  
12 basically manual systems, those start-up costs are going  
13 to be substantially higher and we're concerned about the  
14 micro grants. But we realize that the legislature only  
15 gave the Department so much money to go around this time  
16 and we can appreciate that.

17 On of the things that we were concerned  
18 about is that there is a requirement for a local match,  
19 but it doesn't talk about in-kind services since school  
20 districts have taken the lead in providing facilities,  
21 making the copies, doing the notifications, doing some  
22 of their preliminary advertising along with other things  
23 that have transpired as part of getting Act 32  
24 implemented and off the ground.

25 In terms of weighted voting, this was

1 horrible. Even within PSBA we had discussions on this.  
2 We did numerous modelings of different efforts trying to  
3 make sure it was reasonable and adequate. We wanted to  
4 make sure that 4 school districts weren't at the mercy  
5 of 45 municipalities as part of the process, and I'm  
6 sure other members who are going to speak to you can  
7 talk about some of the internal debates as well.

8 As was reported, we provided a counter-based  
9 on revenue collected. Nobody is ever completely  
10 satisfied with legislation 100 percent. Even that, we  
11 are still willing to work and very supportive of this  
12 move going forward. We also discussed the lengthy  
13 turnaround time and we understand in a number of cases  
14 smaller jurisdictions are waiting for larger  
15 jurisdictions and we know going forward that that 60-day  
16 turnaround is going to be reduced to 30 days. We hope  
17 there are no problems there.

18 The cost sharing with the cost being shifted  
19 to school districts is obviously a concern. School  
20 districts are now under the limitations with the Act 1  
21 index, municipalities are not. So school districts need  
22 to be very concerned about what costs they're accepting  
23 in the pass back of cost from tax collection as it  
24 impinges on the district's limitations under the index,  
25 which has been declining over the last couple of years.

1           In regard to implementation, we understand  
2 that EIT consolidated collection has some municipalities  
3 grumbling. It's our experience to this point that there  
4 is not much in the way of mechanical issues under the  
5 language, but rather it's the local conflicts and  
6 conditions that exist within different communities.  
7 Unfortunately, not everybody can play in the same  
8 sandbox together and that just takes some time to work  
9 out. When implementation problems exist, they have more  
10 to do with the age-old reasons of, I want to make sure  
11 that I get mine, I want to keep you from getting yours  
12 type of situation.

13           We've been working with our school boards.  
14 We've heard of some instances of difficulties around  
15 getting quorums and some of it is municipalities are not  
16 attending the meetings. They have chosen not to attend  
17 the meetings. We have a mix of municipalities that we  
18 have to deal with. We have those who have elected  
19 members who are there in the evenings only, like our  
20 school boards are, we have others which operate in  
21 second-class township code as road supervisors who are  
22 there full-time and we realized that in the different  
23 points of year, this past month, they have been more  
24 concerned about plowing and clearing roads than they  
25 have about attending tax collection meetings. That's



1 only understandable. Their residents only get more  
2 upset if they don't plow the roads than if they attend  
3 the tax collection meetings.

4 In conclusion, despite our opposition to  
5 some of the components of the legislation, PSBA  
6 continues to work to train its members. We worked in  
7 conjunction with the Department of Community and  
8 Economic Development to make school district facilities  
9 -- to help them get access to school district facilities  
10 where they can hold larger training sessions. We've  
11 posted frequently asked questions on our website. We've  
12 joined with other local government associations and DCED  
13 in working to expand our member's knowledge of what's  
14 required here. We appreciate the efforts of this  
15 committee to keep tabs on the implementation phase of  
16 Act 32.

17 Although there have been some problems and  
18 although some material problems may arise in the future,  
19 PSBA suggests that it may be premature to reopen this  
20 legislation at this time. Moreover, changing the rules  
21 and targets in the middle of implementation, it could  
22 probably create greater conflict within the  
23 implementation stage than some of the smaller issues  
24 that have to be overcome right now.

25 With that, I will thank you for inviting me

1 here today. I appreciate the opportunity on behalf of  
2 PSBA and I look forward to your questions.

3 RESEARCH ANALYST GRUTZA: Thank you,  
4 Mr. Chairman, Members of the House Finance Committee. My  
5 name is Ron Grutza and I serve as Assistant Director of  
6 Government Affairs for the Pennsylvania State Association  
7 of Boroughs. I would like to thank you for the  
8 opportunity to comment on the implementation of Act 32.

9 As the process moved forward, the legislated  
10 process towards streamlining the EIT collection system,  
11 our association was engaged as a stakeholder. And we  
12 did support as a concept the structural forms and  
13 somewhat of a consolidation industry for greater  
14 efficiencies to streamline the system. Along with other  
15 local government associations has even pointed out, we  
16 made numerous suggestions to DCED and the bill's  
17 sponsor, Senator Jane Earll, to improve the final bill.

18 Some examples we suggested to help  
19 municipalities included dedicated funding source to  
20 assist with startup costs for the tax collection  
21 committees; establishing a working group of advisors to  
22 help DCED with the implementation; allow more equitable  
23 voting rights for smaller municipalities through a  
24 one-person, one-vote default system; provide a  
25 voluntary, incentivized phase-in of the collection

1 system over a period of years; a mandatory arbitration  
2 provision for disputes between municipalities and tax  
3 collectors; a compliance audit of the new system by the  
4 Legislative Budget and Finance Committee; provide an  
5 opt-out for municipalities and school districts that  
6 have just cause; and provide mandatory information  
7 sharing between the Department of Revenues and local tax  
8 collectors.

9 Many of these suggestions were included in  
10 the final Act 32 and some were not. On the issue of  
11 funding, we were unable to secure a direct appropriation  
12 for startup costs. Unfortunately, however, DCED did  
13 make written commitments to prioritize the Shared  
14 Municipal Service Grants to help with the startup costs  
15 of the tax collection committees. PSBA is glad to see  
16 that DCED is honoring that commitment by recently  
17 contacting all of the tax collection committees to  
18 inform them of the availability of the \$5,000 startup  
19 grants using the Shared Municipal Service Grants.  
20 \$5,000 doesn't seem like a lot of money, however, there  
21 are many tools out there, as DCED had suggested, to  
22 defer some of these costs.

23 Many of the tax collection committees have  
24 been assessing individual municipalities and school  
25 districts prorated fees for startup costs, as we've

1 heard. Some municipalities have bulked at these fees,  
2 even though they are pretty low because they are a  
3 little bit skeptical of the system and they still have  
4 more questions that they need to know. I know that some  
5 of them want to reserve their right to possibly object  
6 to any type of -- I just think it's a lack of  
7 information on their part and that we can somehow do a  
8 better job in information sharing. Also, many  
9 municipalities were not anticipating some of these  
10 startup costs, and therefore, they did not budget for  
11 extra tax collection charges. The issue of no startup  
12 funds from the state has lead to the perception that Act  
13 32 is just another unfunded mandate.

14 Our suggestion to convene a working group of  
15 advisers to assist DCED in implementing Act 32 has been  
16 a very worthwhile process. PSBA would like to commend  
17 the work done by DCED Governor's Center for Local  
18 Government Services and the advisory board for producing  
19 sample bylaws, standard return forms, sample RFPs, and  
20 many other documents that are being used right now by  
21 the tax collection committees across the state. Having  
22 these sampled documents, as was mentioned earlier,  
23 allows each tax collection committee to tailor them as  
24 they see fit.

25 Although we didn't get the one-person,

1 one-vote as the default voting rights in the Act,  
2 individual tax collection committees may, at their  
3 discretion, choose that method after their first  
4 meeting. The issue of voting rights has been one of the  
5 biggest complaints from our membership, many of whom  
6 feel their votes do not count. In fact, some  
7 municipalities have not appointed a delegate to the tax  
8 collection committee due to the sentiment. Their  
9 frustration is merited when you realize that even though  
10 school districts collect more revenue from an earned  
11 income tax, these revenues from municipalities comprise  
12 a higher percentage of municipal budgets. Therefore, we  
13 believe municipalities have more at stake in this  
14 transition and should have at least an equal share in  
15 decisions of the tax collection committee.

16 PSBA was also very disappointed to learn as  
17 part of the implementation process, DCED interpreted  
18 portions of Act 32 to allow offset gains from one  
19 business -- one business gain from another loss in two  
20 separate businesses. Throughout the legislative  
21 process, PSBA remained opposed to using the bill as a  
22 vehicle to address any changes to the tax base and  
23 definitions in "net profits." Many of our members  
24 relied on prior case law to prohibit these types of  
25 offsets. Now, with DCED's strict interpretation, we

1 believe this will further alienate municipalities and  
2 school districts when they learn of these potential  
3 revenue losses due to Act 32.

4           We understand the argument for consistency  
5 with the Department of Revenue's definitions; however,  
6 municipalities do not tax certain things that the state  
7 does, such as Chapter S corporations. Inconsistencies  
8 are inevitable between the local and state definitions  
9 and there will never be an exact 100 percent match. So  
10 we are a little dismayed that the DCED dictated to all  
11 municipalities that they will no longer be able to  
12 prohibit those types of offsets. The bottom line, we  
13 feel, with that is going to be a net loss for  
14 municipalities and school districts.

15           I would like to suggest to the Committee  
16 that the leadership of the tax collection committees  
17 still need more information on other financial methods  
18 to mitigate the upfront costs. And we think that even  
19 though DCED has done a lot of informational sessions and  
20 webinars, perhaps more needs to be done.

21           While there's a considerable amount of  
22 resentment out there over Act 32, most municipalities  
23 are working hard with their tax collection committees to  
24 make the transition work. It may seem very slow in some  
25 counties, but in other counties, they are moving ahead

1 of schedule.

2 As we move forward to consolidate the earned  
3 income tax system, PSBA remains dedicated to informing  
4 our members on the merits of the act and listening to  
5 their concerns. We believe there still is a lack of a  
6 full grasp of all the tools available to municipalities  
7 under Act 32, so more information sharing must be done.  
8 Also, we stand ready to continue our work with DCED and  
9 the Advisory Committee to finish the implementation of  
10 Act 32.

11 Once again, thank you, Mr. Chairman, for  
12 this opportunity and we'll answer any questions that you  
13 might have.

14 CHAIRMAN LEVDANSKY: Thank you. Any members  
15 have questions?

16 REPRESENTATIVE MIRABITO: Just one comment.

17 CHAIRMAN LEVDANSKY: Representative  
18 Mirabito.

19 REPRESENTATIVE MIRABITO: I'm listening and  
20 I'm trying to keep myself in my seat because it seems  
21 like we've taken something that should be simple. You  
22 have a tax, you pay the tax and you read about the local  
23 folks fighting and so forth and I say to myself, if we  
24 we're doing this in a business, we would be going down  
25 the tubes faster than we could count the revenue. And I

1 don't know, it's not really a question. Do you think  
2 this has made things worse, I guess that's the question  
3 that I ask. Do you think this has made things worse  
4 because when I hear some of this testimony, I'm just a  
5 little dismayed.

6 RESEARCH ANALYST GRUTZA: Representative, I  
7 think it remains to be seen at this point. We haven't  
8 gotten into the collection stage. I think at the end of  
9 this year, our municipalities and school districts can  
10 opt whether the new collector collects for the next year  
11 for '11 and it's mandatory in '12. Some of the  
12 frustrations, yes, I think it has hampered some of those  
13 things. Of course, it remains to be seen for when the  
14 revenue starts flowing from the actual system and how  
15 fast it gets to the municipalities and school districts.  
16 That's the primary concern with our membership. There's  
17 a big fear that the money won't get where it's suppose  
18 to go.

19 ASSISTANT EXECUTIVE DIRECTOR HERR: Also  
20 under the present system that we're under today, as it  
21 sits, there are those collection agencies out there that  
22 have created this veil of uncertainty that have made the  
23 members wary. That comes from municipals and school  
24 districts. One collection agency in the immediate area  
25 have \$32 million sitting in it's account, not sure where



1 that money was to go, whether it was to go to school  
2 districts or municipalities and it was just sitting  
3 there. That money should have been distributed back to  
4 the school districts and the municipalities. What  
5 you're seeing is those municipalities, those school  
6 districts in the state that are having what they feel a  
7 very efficient system are now being told that they have  
8 to go to this combined system when they see all of these  
9 examples where the combined system wasn't doing that  
10 great of a job. So they're hesitant and what they're  
11 wanting to do in these discussions among themselves is  
12 to make sure that all entities, be the school districts  
13 or the municipalities, have some say in the governing  
14 make up of that tax collection district, so that they do  
15 not end up seeing what is happening in some of these  
16 larger tax collection districts -- tax collection  
17 agencies that we presently have.

18 I will pick on Representative Denlinger for  
19 a little bit. He got an amendment into the bill to  
20 grandfather in his tax collection agency in Lancaster  
21 County. They ran out of that grandfather and had to go  
22 through the system because there was disagreements  
23 between the municipalities and the school districts on  
24 the operation of the tax collection committee that was  
25 being formed. And part of that was over the governments

1 and how much information would be going back and forth  
2 between municipalities and the school districts. So an  
3 agency that everyone thought was running fairly  
4 efficient when push came to shove, was found that there  
5 were some kinks in the armor. And the municipal  
6 officials in this case, mostly the managers, and I think  
7 I'm speaking correctly there as Representative Denlinger  
8 was saying, we aren't sure that we are getting the funds  
9 that we're supposed to. We're not saying that we should  
10 get more funds that aren't due to us. We just want to  
11 make sure that we get what we're supposed to, the  
12 neighboring municipalities get what they're supposed to  
13 and the school districts get what they're suppose to. I  
14 think that's what you're seeing right now is caution out  
15 there.

16           Earlier I made the statement that DCED is  
17 doing the best that they can, we feel, with the limited  
18 resources that they have. And that gets to another  
19 question or statement made by the chairman. There are  
20 going to be those entities out there that are going to  
21 sell their wares and they're going to go in and say,  
22 hey, we can provide you this to give you some protection  
23 or give you more knowledge, and it's a big change. And  
24 I think they're taking baby steps and they're going to  
25 have problems, sort of like a marriage. You date

1 somebody, you want to know them before you marry them  
2 and I think that's what's happening out there with these  
3 local officials.

4 REPRESENTATIVE MIRABITO: Let's hope that  
5 the divorce rate doesn't match our tax collection.

6 RESEARCH ANALYST GRUTZA: After I made that  
7 statement, I thought about that.

8 REPRESENTATIVE MIRABITO: We'll really be in  
9 trouble.

10 DIRECTOR OF RESEARCH SERVICES DAVARE:  
11 Representative, from the school board side, I don't  
12 think you're creating a problem. I think you're going  
13 to help resolve some of the issues over the longer term  
14 and it's a matter of once we get it in there, I think  
15 school districts are going to see, like the  
16 municipalities are going to see, improved cash flow,  
17 which is going to help them with their timing and their  
18 investments.

19 As bad as the interest rates are, the  
20 quicker we can get it into the bank and earning a little  
21 bit of money for us, even under the interest rates --  
22 and I know swaps is tomorrow morning's hearing -- we can  
23 deal with those kinds of issues. The complexity is  
24 really a fear of the unknown and I think that is what  
25 you might be hearing from some of your constituents is

1 that fear of the unknown -- and I guess the old saying  
2 is, better the devil you know than the devil you don't  
3 -- and I think that's what we've got going here is  
4 nobody is really sure. We know that we've had problems  
5 in the past. We're hoping that this is going to resolve  
6 a lot of those issues, but we just don't know. We  
7 aren't there yet. I think we need to get into it and to  
8 really find out how well it works.

9 CHAIRMAN LEVDANSKY: Thank you.  
10 Representative Denlinger.

11 REPRESENTATIVE DENLINGER: Thank you,  
12 Mr. Chairman. We were discussing earlier the politics  
13 of this issue -- and that's an example of no good deed  
14 goes unpunished -- in attempt to stand up for one's own  
15 county. An agency that ran -- I still believe in a  
16 highly efficient and successful manner and then we get  
17 into the local politics of the issue and therein lies  
18 the challenge I think that's before all of us that it's,  
19 at times, about turf and whose ox is being gored or  
20 perceived to be that way.

21 I think our challenge really is just to rise  
22 above that, and not to allow too much of a narrow  
23 interest on one side or the other to really dominate and  
24 try to put forward something that truly works in the  
25 best interest of all, but it is a challenge and it

1 certainly is recognized. In response to those comments,  
2 I thought that I would share that.

3 ASSISTANT EXECUTIVE DIRECTOR HERR: Just a  
4 quick followup, I don't think it's whose ox is going to  
5 be gored. I think both the admissible officials and the  
6 school board officials just want to make sure that  
7 they're getting back that amount which is due to them,  
8 and really nothing more, because there are cases, again,  
9 under the present system where municipalities or school  
10 districts were overpaid. And then later on, the agency  
11 went to those entities and said, you have to pay us  
12 back. Well, we've already spent the money. Well, you  
13 shouldn't have, you were overpaid. Well, you know, once  
14 you give it to the school district, of course they're  
15 going to spend it. They've got their expenses. They  
16 feel that it's their money. I think what the whole  
17 thing comes down to is called a turf war or whatever  
18 it's just to make sure that everyone is protected so  
19 that they get their money in a reasonable amount of  
20 time.

21 CHAIRMAN LEVDANSKY: Thank you. One final  
22 question that I have. Given the amount of confusion out  
23 there, you obviously all were aware or were even  
24 involved in the Department's EIT best practices guide,  
25 which you know has a lot of the sample language and it

1 explains how to do this. Have the school boards, the  
2 townships and the boroughs, have you guys used that  
3 document to educate your members? Once we've passed the  
4 law and this guide was put together, have you guys used  
5 that document and recommended to your members that they  
6 use that document and they use that as a guide as they  
7 begin the process of making this change?

8 ASSISTANT EXECUTIVE DIRECTOR HERR: Simple  
9 answer, from our perspective is yes. We have promoted  
10 it in our publications and everything to our membership,  
11 not only the best practice, but the samples that they  
12 have put out, everything that the Department has done to  
13 date, we have put forward to our members saying, this is  
14 what we think will help you out in the negotiations with  
15 your committee.

16 DIRECTOR OF RESEARCH SERVICES DAVARE:  
17 Likewise, the short answer is yes. I've been out on the  
18 road for meetings with different groups of the PSBA  
19 constituencies where I've actually provided copies of  
20 the DCA documents and provided reference to the website  
21 where additional documents and information could be  
22 retrieved and I've had numerous calls, which I continued  
23 to make referrals to the DCED documents.

24 RESEARCH ANALYST GRUTZA: Yes, the Boroughs  
25 Association as well. We have linked to the DCED's

1 website. They have a great website. The Act 32 page  
2 has all of the documents that you need up there,  
3 timelines and the best management practice report, which  
4 we make available as a link from our website to it. So  
5 once in awhile constituents will have Act 32 questions,  
6 which we will point them in that direction, that here's  
7 the way that the law was set and we set it up so that  
8 DCED would provide you with those sample documents and  
9 everything to ease the transition and make things a  
10 little bit easier. That has definitely been helpful.

11 CHAIRMAN LEVDANSKY: Maybe just one final  
12 one. Prior to Act 32, essentially the mechanism for  
13 collecting the EIT in the state, for the most part, I  
14 think, it was collected by for-profits wage tax  
15 collection companies. At least in my area, most of my  
16 school districts and municipalities contract that  
17 function out to a private sector entity that does this  
18 kind of work.

19 But there are others and other regions of  
20 the state, like Lancaster, where they have had a local  
21 cooperative public or quasi-public, nonprofit  
22 organization that did it. So there's two different  
23 models here. One is using a for-profit wage tax  
24 collection entity and the other one is for the  
25 municipalities and school districts to come together to

1 form their own community nonprofit organization for  
2 doing it. Are you seeing, to the extent that what was  
3 out there prior to Act 32, post-Act 32, now are we  
4 seeing school districts and municipalities more likely  
5 to turn to the option of forming their own local co-op  
6 or vice versa? Are we seeing some that were in the  
7 co-op models saying, let's just contract out with a  
8 for-profit company?

9 DIRECTOR OF RESEARCH SERVICES DAVARE: We're  
10 seeing both. For example, up in the northern reaches  
11 where I spend some of my time in McKean and Elk County,  
12 they're going together under a joint county function and  
13 they're looking to do contracting with that. I talked  
14 with the one business manager who was appointed as the  
15 lead person for this tax study commission and he said  
16 that a couple of their municipalities delivered a real  
17 clear message of wanting to keep the same outside  
18 contractor for the countywide effort that they currently  
19 use. He said that doesn't seem to be a problem because  
20 that for-profit organization is pretty well covering  
21 most of the community right now.

22 I spoke with another business manager in  
23 Blaire County yesterday. That tax collection district  
24 is talking to West Shore Tax Bureau. They are looking  
25 at creating their own tax collection agency. We're



1 seeing both in that regard as some of it is where people  
2 feel they've got the skills and technology to do it on  
3 their own, others, it has to do with the sparsity  
4 population and a comfort level with the for-profit tax  
5 collection companies!

6 CHAIRMAN LEVDANSKY: But I'm assuming there  
7 would be greater startup costs for those that are  
8 transitioning from contracting out with a for-profit  
9 company to doing it in-house, so to speak.

10 DIRECTOR OF RESEARCH SERVICES DAVARE:  
11 There's a probability of greater startup cost there but  
12 the discussion with the business manager out there  
13 indicated that they felt in the longer term they can  
14 control their cost a little bit better and keep it under  
15 what they would have to pay.

16 ASSISTANT EXECUTIVE DIRECTOR HERR: I would  
17 echo everything that was just said except there's a  
18 third category and that was the individual tax collected  
19 that was appointed in Act 511 and allowed you to appoint  
20 an individual. And what you're seeing in some parts of  
21 the state where there are large numbers of those, they  
22 are going and starting up their own. So naturally, they  
23 are going to have startup costs instead of having a  
24 for-profit.

25 So you've got to weigh the different

1 scenarios and what is being proposed to the tax  
2 collection committees. But we are seeing the same thing  
3 with comments or questions coming to our office.

4 RESEARCH ANALYST GRUTZA: I have heard of,  
5 and this is one of the most fragmented counties, Mercer  
6 County, had a lot of individual tax collectors. They  
7 got together and had an idea to kind of incorporate all  
8 of those individual tax collectors to run the tax  
9 collection bureau. I don't know if that has taken off.  
10 I haven't heard any update, but that was an idea out  
11 there. They were kind of thinking out of box there to  
12 save those individual tax collector jobs.

13 CHAIRMAN LEVDANSKY: Thank you very much. I  
14 appreciate your insights. The final presenter is Jay  
15 Himes with the Pennsylvania Association of School  
16 Business Officials.

17 EXECUTIVE DIRECTOR HIMES: Thank you,  
18 Mr. Chairman. I am Jay Himes. I am the executive  
19 director of PASBO, the Pennsylvania Association of  
20 School Business Officials. We're a statewide  
21 organization of K-12 non-instructional administrators.  
22 The majority of the school districts have appointed our  
23 members to serve on the county tax collection  
24 committees. I'm going to, again, summarize testimony.  
25 You have heard a lot of this.

1 I would, of course, always start with a  
2 standard objection to state mandates and unfunded state  
3 mandates and you probably would expect that. Again, my  
4 concern with mandates, it does create new requirements,  
5 obstacles and challenges, but beyond that, expressing  
6 our concerns as always with mandates, we would say that  
7 we don't believe Act 32 is an unreasonable mandate. It  
8 was really probably a public policy necessity in our  
9 state. We had a very fragmented system as the chairman  
10 has indicated.

11 Multiple collectors: Sometimes multiple  
12 collectors for an individual who resided in a school  
13 district and their municipality with then having to file  
14 two returns, a lack of standardized procedures, and  
15 certainly a lack of efficiency caused by all of those  
16 factors. We needed a more efficient system and,  
17 unfortunately, we probably needed a state statute and a  
18 state mandate to do that.

19 Attached to our testimony is a list of  
20 things our organization produced in an attempt to help  
21 facilitate a smooth implementation of Act 32 and we  
22 believe it is a huge job. We believe earned income tax  
23 collection is complexed. So creating from scratch, 69  
24 new collection agencies requiring, what I would probably  
25 call an unprecedented level of school and municipal

1 cooperation, we believe was a big job. So our intent  
2 was to try and help our members with their tax committee  
3 work in the implementation process.

4 We tried to work in concert, not in  
5 competition with DCED. We did have this 30-member task  
6 force course because we did have some very good  
7 expertise. Again, from Lancaster County, for example,  
8 that was way ahead of the curve in terms of  
9 consolidating their earned income tax collection.

10 DCED had representatives on a committee, so  
11 we made outreach to them. We made outreach to the CPAs  
12 and we're going to make outreach to the business  
13 community because, again, we believe this is a good  
14 statute and we're simply trying to help our members make  
15 the best decisions in terms of implementation. That  
16 list of items attached to the testimony labeled  
17 implementation packet was available on our website.  
18 Anybody could access it and we encourage the people to  
19 use it. So we hope we helped facilitate the process of  
20 getting to smooth implementation of Act 32.

21 Let me talk about some of the hurdles and  
22 maybe some of the problems or some of the issues that  
23 have been addressed. First of all, as you see at the  
24 bottom of page 2, we made a chart just to show you the  
25 size of the tax collection committees. In some cases,

1 they're extremely large. They're essentially many  
2 united nations, if you will, almost 100 members in some  
3 cases. The average size of the tax collection  
4 committees is 45 delegates. So they are large and  
5 putting everybody in the same room and saying we've got  
6 to come to decisions and we've got to build a new  
7 structure to collect income taxes, again, unprecedented,  
8 we think was a significant undertaking. It helped to  
9 probably exacerbate already many existing conflicts  
10 within the county.

11           You have already raised the issue,  
12 Mr. Chairman, about large versus small. You've heard a  
13 little bit about school district municipal conflict.  
14 You have political conflicts, you have those with high  
15 income areas and those in low income areas. So you have  
16 any number of conflicts when everybody got in the room.  
17 For the first time, maybe to take Elam's marriage  
18 analogy a step backwards, it was sort of the first date  
19 and it was probably a bit awkward. We're not surprised  
20 and we think those conflicts, to work themselves out,  
21 took a little time and obviously it wasn't going to be  
22 smooth from the very start. Again, clearly, we think  
23 you have established a new precedent in the requirement  
24 for municipal and school decision-making in joint  
25 activity.

1           Let me talk about one of the stumbling  
2 blocks that you have already heard about and that is the  
3 voting process. Again, we think that you did a good  
4 thing by saying, here is the voting process, if you want  
5 to change it, that's a local option, we would commend  
6 you for doing that. Also remember, you have provided  
7 that weight in two different ways. You provided a  
8 weighted voting process, which we think is the proper  
9 process. We believe that those who have the most at  
10 stake should have the most votes in the process.

11           But you also said that you're going to  
12 allocate the expenses of the TCC based upon that weight  
13 as well. There's sort of the back-end weight that comes  
14 with it. So you can argue either way. If you get  
15 one-person, one-vote, then you ought to split the cost  
16 equally. If you have weighted voting, then seemingly,  
17 you can distribute the cost on a weighted vote as well.  
18 Argue sort of one-person, one-vote, but you split the  
19 cost up based upon the revenues, we think is an  
20 inconsistent argument.

21           Now, again, it wouldn't be a case where this  
22 is sheerly a school district with all the votes. There  
23 are many counties -- well, I shouldn't say that -- there  
24 are a handful of counties where the EIT revenues exceed  
25 those of school districts. It happens for a variety of

1 reasons, but there are those cases. But many cases, if  
2 you looked at municipal and school district EIT revenues  
3 in the aggregate, they are very, very close. You  
4 usually don't get, in terms of all of the school  
5 districts and all of the municipalities, a significant  
6 difference one way or the other, at least in most of the  
7 cases.

8           Let me talk about the potential issues we  
9 see ahead as well. One of the things that we're really  
10 concerned about is the potential discussion to cash flow  
11 and timing. And we would say again that the Department  
12 and legislature did a good job in providing some  
13 flexibility to the tax commissions and how they wanted  
14 to implement the new process. You said you have to do  
15 it for certain by January 1, '12, but you gave people an  
16 option if the tax committees wanted to determine that in  
17 their county, they could take it a year earlier. And,  
18 again, we think that's a good idea. Again, it's local  
19 decision, local determination. But ramping up a year  
20 earlier, would one, for school districts, avoid  
21 implementing the new collection system in the same year  
22 we're going to have the pension launch and that's a  
23 concern.

24           In addition, it would really provide those  
25 districts -- counties rather, that are very close to

1 having a consolidative system already to take it to the  
2 next step and not necessarily have to wait. They can  
3 work the bugs out in year one, if you will. You already  
4 had Lancaster, that was countywide, but you had York,  
5 you had Berks, you had a few other counties that were  
6 already towards some consolidation. So this step makes  
7 it easier for them to move ahead quicker if, indeed,  
8 they're ready. I think in both of those situations,  
9 one, to avoid the cash flow implications that may be  
10 causing concern relative to school employee pension cost  
11 and, again, for those that are already very  
12 consolidated, if not completely, it gives them the  
13 opportunity to move forward and we think providing that  
14 option at the local level, again, was a good idea.

15           If you were looking at technical amendments,  
16 one thing we would urge you to look at is the bonding  
17 requirements. We're concerned of bonding capacity for a  
18 couple of different reasons. One, I think the Chairman  
19 already made reference to the fact about where there  
20 will be a creation of new bureaus. We don't think there  
21 will be an immediate creation of new bureaus because,  
22 again, it adds another level of complexity to the  
23 building process of creating their county-wide system.  
24 So if a third-party private collector is already doing a  
25 majority of the collection in that county, it's sort of



1 an anteroom step to continue that.

2           Creating a new bureau from scratch, I think,  
3 would be difficult, but not impossible. And maybe in  
4 the future that will happen. But in terms of bonding,  
5 obviously, you want to assure that the revenues  
6 collected, whether they be by bureau or a for-profit  
7 private sector third-party, are protected. Our concern  
8 is that there, at least in our estimation, maybe a dozen  
9 private sector third-party collectors that will get most  
10 of the tax collection business by counties.

11           Again, for the aforesaid reason, that  
12 building your own bureau from scratch at this point  
13 creates another level of complexity and some, obviously,  
14 additional organizational problems. If we have a dozen,  
15 in fact, I might even estimate maybe a half dozen, would  
16 get a bulk of the tax collection committee business  
17 because it takes a considerable level of technology and  
18 it takes a considerable level of a business operations  
19 expertise to get there and that's not necessarily all  
20 bad. There is that investment that's been made. So  
21 these firms know what they're doing, no question about  
22 it. And again, hopefully we get to some economies of  
23 scale with the collection cost.

24           The downside in terms of the bonding with  
25 just what maybe a dozen or so providers for the most

1 part having a lot of the county-wide business is that it  
2 will require a few companies to get very large bonds and  
3 we're not sure that's going to be easily obtainable. So  
4 in terms of technical corrections, we might offer up  
5 that as one potential.

6           The other area of concern, not necessarily  
7 for addressing legislatively, although, there is at  
8 least one aspect to it, but another concern we have  
9 moving forward is employer compliance. To avoid cash  
10 flow disruptions that we're concerned about, we're going  
11 to have to have a high level of cooperation from the  
12 employer community. It's going to be new; it's going to  
13 be different; it's going to require, again, accurate  
14 filing; it's going to require complete filing in order  
15 that we get names, addresses, proper withholdings, other  
16 identification information from every employer when we  
17 do that transition. And we've had some experience.  
18 You've given school districts the ability to replace the  
19 occupational assessment tax with additional income tax  
20 and that year of transition, again, always takes awhile  
21 to get to the point where it should be.

22           So we're concerned that we hope the business  
23 community that really supported Act 32 would also come  
24 out and aggressively support education efforts. Again,  
25 as I said, we're going to make our outreach to them

1 because their compliance is critical. Without their  
2 support, again, we go back to that fear of cash flow  
3 disruption. So we're hopeful again that they may be  
4 very supportive in the implementation process to make  
5 sure that the business community understands the changes  
6 that will be taken place.

7 With that, again, Mr. Chairman, I would like  
8 to thank you for the opportunity to talk about this  
9 important issue. We've tried to make this a priority  
10 for our members because we believe that down the road it  
11 will create very good economies of scale, effectiveness  
12 in the earned income tax collection process and we want  
13 to see it succeed. I'll be glad to respond to any  
14 questions.

15 CHAIRMAN LEVDANSKY: Thank you. There are  
16 no questions, Mr. Himes. I just want to respond to one  
17 point about there being an unfunded mandate. Last  
18 year's budget necessitated significant cuts and I think  
19 practically every standing agency in state government,  
20 including DCED, who's budget was cut substantially, and  
21 I think it's pretty obvious that they wish they had more  
22 funds to be able to help with the upfront costs to get  
23 this Act implemented, but their budget was cut. That  
24 stands in stark contrast with school districts.

25 EXECUTIVE DIRECTOR HIMES: I understand.

1                   CHAIRMAN LEVDANSKY: \$300 million increase  
2 over the prior year. There's an easy way to solve that  
3 unfunded mandate. We didn't have to spend \$300 million  
4 more. Maybe this year you're suggesting we move 3 or 4  
5 million out of the school district funding and send it  
6 over to the Department so that they could do the job on  
7 Act 32.

8                   EXECUTIVE DIRECTOR HIMES: We're very  
9 appreciative of the increase, Chairman Levdansky, and  
10 the government has been very supportive of education  
11 funding and I know you would expect me to raise the  
12 unfunded mandate issue and I know --

13                   CHAIRMAN LEVDANSKY: No, I don't.

14                   EXECUTIVE DIRECTOR HIMES: Well, we've  
15 raised it many times and we understand that there are  
16 tradeoffs and that's why we said this was not an  
17 unreasonable mandate.

18                   CHAIRMAN LEVDANSKY: To be honest with you,  
19 I really don't look at it as a mandate. I really look  
20 at it as -- because long term, there's going to be cost  
21 savings. I understand there are some upfront costs to  
22 be born and we wish the state -- we're in a predicament  
23 where we can't provide as much upfront funding as we  
24 would like to, but long term, this is going to be a cost  
25 saving to school districts and municipalities. You're

1 going to spend less money in the tax collection process  
2 long term than which you are right now.

3           So there's that and the fact that there's  
4 \$237 million that goes uncollected. You're going to get  
5 more revenue just because there's that much slippage in  
6 the existing system. So look, generally speaking, I  
7 understand unfunded mandates. I understand where they  
8 come from historically and why they occur the way they  
9 did, but of all things that I want to call an unfunded  
10 mandate, this would be one of them.

11           With that, I want to thank you for your  
12 testimony. There are no other questions? Okay. What I  
13 would like to do now is to just call the panel from DCED  
14 back up just to get their additional input and reaction  
15 to the comments and testimony they've heard here today.

16           CHIEF COUNSEL FISHMAN: To make this very  
17 brief, my first comment is it's so nice to have everyone  
18 realize that they should have given us more funds to do  
19 this. And the reality is we were cutting local  
20 government services from 2.4 million to 500 thousand.  
21 So there really is a lack of ability to assist any  
22 further.

23           The only point that was really made by  
24 anyone that gives me any concern is the suggestion that  
25 the payments to municipalities under this system will be

1 less efficient. There are municipalities that get daily  
2 reports today. Under this system, they can get daily  
3 reports. What we have is a minimum, that is, you must  
4 have the 30-day reporting, but if you as a tax committee  
5 contract with your tax agent to give you daily, weekly,  
6 monthly, it's your choice. Certainly there will be more  
7 expenses, the more frequent you want those. And they'll  
8 be able to be electronic now.

9           The other key thing is that we don't  
10 emphasize enough, and we should, that the efficiencies  
11 are also created by the technology. Most tax collectors  
12 can't afford to have the most effective software. Those  
13 that have large numbers of counties or a large number of  
14 clients or large clients themselves are going to be able  
15 to employ these. We are assisting them by doing  
16 diligence on these systems. So that alone is going to  
17 make the system more efficient and we'll collect more  
18 taxes. That's an improvement that we couldn't have had  
19 without the consolidation.

20           But other than that, you see that we were  
21 between a rock and a hard point with organizations that  
22 didn't believe in their own context, what's fair for one  
23 isn't fair for the other and vice versa. And we tried  
24 to draft legislation that would meet all of their basic  
25 needs and try to compromise on those where we could; and

1 the fact that we've made neither school boards nor  
2 municipalities totally happy means we must have been  
3 successful.

4 CHAIRMAN LEVDANSKY: Thank you. Anybody  
5 else? Director Kassoway.

6 EXECUTIVE DIRECTOR KASSOWAY: Could you  
7 respond to the comment that was made that the Department  
8 made an interpretation or the Act made an interpretation  
9 that the gains of businesses are able to be all set by  
10 losses? Is that true? How did that happen?

11 CHIEF COUNSEL FISHMAN: In fact, that's just  
12 not a good characterization. We didn't make that  
13 determination. We met with the Department of Revenue,  
14 reviewed their holdings, their findings and their  
15 practice and their interpretation of the law and said it  
16 makes no sense to have an inconsistent interpretation  
17 over the same set of facts under the Department of  
18 Revenue and our tax collecting committees. While there  
19 was a disagreement, again, with constituents over that,  
20 we feel that the current definition that we use is not  
21 an interpretation, it's simply consistency with existing  
22 law.

23 EXECUTIVE DIRECTOR KASSOWAY: So they  
24 updated their original interpretation when, some years  
25 back, they were charged with coming up with a definition

1 of earned income and they came up with one, they  
2 modified that subsequently for implementation purposes  
3 of this Act?

4 CHIEF COUNSEL FISHMAN: Not for purposes of  
5 this Act. They had already done it for their own  
6 purposes. We're simply adopting that interpretation and  
7 those regulations that they promulgated.

8 EXECUTIVE DIRECTOR KASSOWAY: They do that  
9 through a regulation or through -- what kind of measure?

10 CHIEF COUNSEL FISHMAN: Regulation and  
11 policy I think.

12 EXECUTIVE DIRECTOR KASSOWAY: Could you look  
13 in and get back to us on that?

14 CHIEF COUNSEL FISHMAN: Yes.

15 EXECUTIVE DIRECTOR KASSOWAY: Thank you.

16 CHIEF COUNSEL FISHMAN: We'll give you the  
17 background on that particular issue, which, again, took  
18 probably a month of wrangling to resolve.

19 LOCAL GOVERNMENT POLICY SPECIALIST HOFFMAN:  
20 That was discussed intensely on the Advisory Committee  
21 input from this community and CPA organizations and I  
22 think everyone other than UNCs were in an agreement that  
23 that was working. Once again, that was not the  
24 Department's interpretations.

25 CHAIRMAN LEVDANSKY: Thank you very much. I



1 appreciate your insight and your testimony today. This  
2 concludes the public hearing today on Act 32. Thank  
3 you.

4 (The hearing concluded at 4:00 p.m.)

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I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the within proceedings and that this is a correct transcript of the same.

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Kelsey Dugo